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10/27/07

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MARK VINCENT KAPLAN (SBN 58836)
JAMES M. SIMON (SBN 109913)
KAPLAN & SIMON, L.L.P.
2049 Century Park East, Suite 2660
Los Angeles, California 90067
Telephone: (310) 277-9009
Facsimile: (310) 552-1970

Attorneys for Respondent
KEVIN FEDERLINE

Redacted
FILED
LOS ANGELES SUPERIOR COURT
AUG 27 2007
JAMES M. SIMON, CLERK
[Signature]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In re Marriage of:

Petitioner: BRITNEY SPEARS

and

Respondent: KEVIN FEDERLINE

CASE NO. BD 455 662

DECLARATION OF MARK VINCENT
KAPLAN IN OPPOSITION TO
PETITIONER'S EX PARTE
APPLICATION FOR CONTINUANCE
OF RESPONDENT'S OSC

DATE: August 27, 2007
TIME: 8:30 a.m.
DEPT: 88

FILED CONDITIONALLY UNDER SEAL

1 DECLARATION OF MARK VINCENT KAPLAN

2 I, MARK VINCENT KAPLAN, hereby declare as follows:

3 1. I am an attorney duly licensed to practice law before all of the Courts of
4 the State of California, and am a partner of Kaplan & Simon, L.L.P., attorneys of record
5 for Respondent Kevin Federline since the inception of this matter. I submit this
6 declaration in opposition to Petitioner's ex parte request for a continuance of
7 Respondent's OSC [REDACTED] scheduled for hearing on September 17, 2007. As
8 described below, Respondent has offered to stipulate to a continuance, subject to
9 limited and reasonable interim orders, all of which were rejected by Petitioner.

10 2. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 • [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 • [REDACTED]
20 [REDACTED]
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08/11/08

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A.

For the OSC hearing, Respondent has requested that the Court make the following orders:

08/11/00

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B. [REDACTED]

C. [REDACTED]

D. [REDACTED]

E. [REDACTED]

F. [REDACTED]

G. [REDACTED]

H. Petitioner shall make a pendete lite payment of \$100,000 to be applied to Respondent's litigation expenses.

5. On August 13, 2007, Dennis Wasser advised me that he was taking over the case from Laura Wasser. On August 16, 2007, Mr. Wasser requested that I send him proposed conditions for a continuance of the OSC. The following day my partner, James Simon, sent Mr. Wasser a letter, a copy of which is attached hereto as Exhibit A, proposing that Respondent will stipulate to a reasonable continuance of the pending OSC, subject to the following interim orders, effective forthwith:

A. [REDACTED]

B. [REDACTED]

[REDACTED]

3 [REDACTED]

4 [REDACTED] and

5 E. Petitioner shall make a pendete lite payment of \$50,000 to be
6 applied to Respondent's litigation expenses.

6. On Friday, August 17, 2007, I inquired of Mr. Wasser in regard to his response to the proposed conditions for continuance and he said his office may no longer be representing Petitioner and he would get back to me on Monday, August 20, 2007. On August 22, 2007, I spoke to Mr. Wasser and he advised that the proposed conditions were not acceptable and that his office would be bringing an *ex parte* application for continuance of the OSC. To date, I have never received an offer from Petitioner's counsel in regard to any acceptable condition for a continuance.

14	7.	[REDACTED]
15		[REDACTED]
16		[REDACTED]
17		[REDACTED]
18		[REDACTED]
19		[REDACTED]
20		[REDACTED]
21		[REDACTED]
22		[REDACTED]
23		[REDACTED]
24		[REDACTED]
25		[REDACTED]
26		[REDACTED]
27		[REDACTED]

28 || |||

1 8. While Respondent is attempting to move diligently forward with relevant
2 discovery, Petitioner's continued pattern is to delay discovery and to delay the hearing
3 in this matter. Petitioner's deposition was duly noticed for August 20, 2007. Though
4 Mr. Wasser stated he was taking over the case, Petitioner did not appear for her
5 deposition on the basis that Laura Wasser was on vacation. On August 21, 2007, I
6 faxed a letter to Mr. Wasser, a copy of which is attached hereto as Exhibit B,
7 requesting that I immediately be provided a date for Petitioner's deposition. Despite
8 this request and my repeated requests thereafter, no date has yet been offered for the
9 taking of Petitioner's deposition.

10 9. In addition to Petitioner's deposition, six non-party witnesses have been
11 scheduled pursuant to subpoenas, as follows:

<u>Name</u>	<u>Date</u>
Alli Sims (Petitioner's assistant)	8/28/07
Promises Treatment Center (records only)	9/4/07
Dr. Betty Wyman (Petitioner's designated sober companion)	9/5/07
Larry Rudolph (Petitioner's former business manager)	9/6/07
Daimon Shippen (Petitioner's former body guard)	9/7/07
Shannon Funk (Petitioner's former assistant)	9/7/07
Christine Hallet (Petitioner's former nanny)	9/12/07

20 Though there are ten attorneys in the office of Petitioner's counsel, Respondent is now
21 apparently expected to wait until Ms. Wasser returns from her 17 day vacation on
22 September 4, 2007, just 13 days before the hearing, to even begin scheduling dates for
23 depositions. Respondent is not opposed to coordinating dates for depositions, but
24 Respondent is opposed to completion of his discovery being stonewalled. In fact,
25 Respondent has offered to stipulate to exchange witness lists and arrange for
26 acceptance of service of deposition subpoenas. Attached hereto as Exhibit C is a
27 copy of the letter from James Simon dated August 17, 2007, requesting that Petitioner's
28 counsel advise when she is prepared to exchange lists of known non-party witnesses

1 and to provide us with a list of Petitioner's past and present personal assistants,
2 nannies and security personnel so that we may identify for you additional witnesses. To
3 date, we have received no response from Petitioner's counsel to this proposal.

4 10. [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 11. Since July 30, 2007, when Judgment was entered in this matter,
21 Respondent has incurred attorney fees and costs in excess of \$40,000 and there will be
22 substantial legal work required of us on behalf of Respondent as described above and
23 described in my prior fee declaration. With competent counsel on both sides of this
24 [REDACTED] litigation, the pleadings will be voluminous and hearing will be contested and
25 expensive.

26 12. Per Respondent's Income & Expense Declaration dated January 24,
27 2007, a copy of which is attached as **Exhibit BB** to Respondent's OSC, he has no net
28 income after business expenses. [REDACTED]

1 [REDACTED] and Respondent's receipt of spousal support of \$20,000 per month
2 will end on November 15, 2007. Per Petitioner's Income & Expense Declaration dated
3 May 21, 2007, a copy of which is attached as Exhibit CC to Respondent's OSC, her
4 average monthly income is \$737,868. Petitioner is clearly the "monied party" in this
5 case. Respondent requests as a further condition to any continuance that Petitioner
6 shall make a pendete lite payment of \$50,000 to be applied to Respondent's litigation
7 expenses.

8 The above facts are within my personal knowledge and I could and would
9 competently testify thereto if called upon to do so.

10 I declare under penalty of perjury under the laws of the State of California that
11 the foregoing is true and correct.

12 Executed on August 26, 2007 at Los Angeles, California.

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14 MARK VINCENT KAPLAN
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†CERTIFIED FAMILY LAW SPECIALIST
The State Bar of California
Board of Legal Specialization

*A PROFESSIONAL CORPORATION

August 21, 2007

VIA FAX ONLY (2 Pages)
(310) 553-1793

Dennis M. Wasser, Esq.
Wasser, Cooperman & Carter
2029 Century Park East, Suite 1200
Los Angeles, California 90067

Re: **Marriage of Spears/Federline**

Dear Dennis:

In the absence of an agreement to continue the OSC, I will continue to coordinate with you to complete discovery and ready this matter for hearing on September 17, 2007.

Britney did not appear for her duly noticed deposition on August 20, 2007 at 10:00 a.m. at our office. I acknowledge that Laura advised me that the August 20, 2007 date would be while she is on vacation. However, I must insist that you contact me to immediately schedule the first available date for commencement of Britney's deposition reasonably in advance of the September 17, 2007 order to show cause hearing.

In addition, I call to your attention that the deposition examinations of, as of this date, five third party witnesses have been scheduled pursuant to subpoena which we intend to go forward on the dates scheduled, which as a matter of reference and for your convenience are as follows:

<u>Name</u>	<u>Date</u>	<u>Time</u>
Alli Sims	August 28, 2007	10:00 a.m.
Betty Wyman	September 5, 2007	10:00 a.m.
Daimon Shippen	September 7, 2007	10:00 a.m.
Shannon Funk	September 7, 2007	1:30 p.m.
Christine Hallet	September 12, 2007	10:00 a.m.

8/21/07

Dennis M. Wasser, Esq.
Wasser, Cooperman & Carter
August 21, 2007
Page 2

Please advise me at your first opportunity if there is someone other than yourself I should attempt to coordinate discovery dates, in Laura's absence.

Thank you for your immediate attention to these matters.

Sincerely,

KAPLAN & SIMON, L.L.P.

By


MARK VINCENT KAPLAN

MVK/ms

wasser depositions2.wpd

08/21/07

TRANSMISSION VERIFICATION REPORT

TIME : 08/21/2007 16:11
NAME : KAPLAN & SIMON
FAX : 310-552-1970
TEL : 310-277-9009
SER.# : 000C5J225630

DATE, TIME
FAX NO./NAME
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August 17, 2007

VIA FAX ONLY (1 Page)
(310) 553-1793

Laura Wasser, Esq.
Wasser, Cooperman & Carter
2029 Century Park East, Suite 1200
Los Angeles, California 90067

Re: **Marriage of Spears/Federline**

Dear Laura:

Per your letter of August 15, 2007, this will confirm that we are willing to work with you to obtain acceptance of service of non-party witnesses. Please advise when you are prepared to exchange lists of known non-party witnesses. Please also provide us with a list of Britney's past and present personal assistants, nannies and security personnel so that we may identify for you additional witnesses.

Sincerely,

KAPLAN & SIMON, L.L.P.

By


JAMES M. SIMON

JMS/ec
c: Kevin Federline
Wasser-L.witnesses.wpd

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Attorneys for Respondent
KEVIN FEDERLINE

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